

1 Amend 2 Cal. Code Regs. section 18730 to read:

2
3 **§ 18730. Provisions of Conflict of Interest Codes.**
4

5 (a) Incorporation by reference of the terms of this regulation along with the designation
6 of employees and the formulation of disclosure categories in the Appendix referred to below
7 constitute the adoption and promulgation of a conflict of interest code within the meaning of
8 Government Code section 87300 or the amendment of a conflict of interest code within the
9 meaning of Government Code section 87306 if the terms of this regulation are substituted for
10 terms of a conflict of interest code already in effect. A code so amended or adopted and
11 promulgated requires the reporting of reportable items in a manner substantially equivalent to the
12 requirements of article 2 of chapter 7 of the Political Reform Act, Government Code sections
13 81000, ~~et seq.~~ et seq. The requirements of a conflict of interest code are in addition to other
14 requirements of the Political Reform Act, such as the general prohibition against conflicts of
15 interest contained in Government Code section 87100, and to other state or local laws pertaining
16 to conflicts of interest.

17 (b) The terms of a conflict of interest code amended or adopted and promulgated
18 pursuant to this regulation are as follows:

19 (1) Section 1. Definitions.

20 The definitions contained in the Political Reform Act of 1974, regulations of the Fair
21 Political Practices Commission (2 Cal. Code of Regs. sections ~~18100, et seq.~~ 18110 et seq.), and
22 any amendments to the Act or regulations, are incorporated by reference into this conflict of
23 interest code.

24 (2) Section 2. Designated Employees.

1 The persons holding positions listed in the Appendix are designated employees. It has
2 been determined that these persons make or participate in the making of decisions which may
3 foreseeably have a material effect on economic interests.

4 (3) Section 3. Disclosure Categories.

5 This code does not establish any disclosure obligation for those designated employees
6 who are also specified in Government Code section 87200 if they are designated in this code in
7 that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly
8 included within the jurisdiction in which those persons must report their economic interests
9 pursuant to article 2 of chapter 7 of the Political Reform Act, Government Code sections 87200,
10 *et seq.*

11 In addition, this code does not establish any disclosure obligation for any designated
12 employees who are designated in a conflict of interest code for another agency, if all of the
13 following apply:

14 (A) The geographical jurisdiction of this agency is the same as or is wholly included
15 within the jurisdiction of the other agency;

16 (B) The disclosure assigned in the code of the other agency is the same as that required
17 under article 2 of chapter 7 of the Political Reform Act, Government Code section 87200; and

18 (C) The filing officer is the same for both agencies.¹

19 Such persons are covered by this code for disqualification purposes only. With respect to

¹ Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code section 81004.

1 all other designated employees, the disclosure categories set forth in the Appendix specify which
2 kinds of economic interests are reportable. Such a designated employee shall disclose in his or
3 her statement of economic interests those economic interests he or she has which are of the kind
4 described in the disclosure categories to which he or she is assigned in the Appendix. It has been
5 determined that the economic interests set forth in a designated employee's disclosure categories
6 are the kinds of economic interests which he or she foreseeably can affect materially through the
7 conduct of his or her office.

8 (4) Section 4. Statements of Economic Interests: Place of Filing.

9 The code reviewing body shall instruct all designated employees within its code to file
10 statements of economic interests with the agency or with the code reviewing body, as provided
11 by the code reviewing body in the agency's conflict of interest code.²

12 (5) Section 5. Statements of Economic Interests: Time of Filing.

13 (A) Initial Statements. All designated employees employed by the agency on the
14 effective date of this code, as originally adopted, promulgated and approved by the code
15 reviewing body, shall file statements within 30 days after the effective date of this code.

16 Thereafter, each person already in a position when it is designated by an amendment to this code
17 shall file an initial statement within 30 days after the effective date of the amendment.

18 (B) Assuming Office Statements. All persons assuming designated positions after the
19 effective date of this code shall file statements within 30 days after assuming the designated
20 positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

² See Government Code section 81010 and 2 Cal. Code of Regs. section 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

1 (C) Annual Statements. All designated employees shall file statements no later than
2 April 1.

3 (D) Leaving Office Statements. All persons who leave designated positions shall file
4 statements within 30 days after leaving office.

5 (5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

6 Any person who resigns within 12 months of initial appointment, or within 30 days of the
7 date of notice provided by the filing officer to file an assuming office statement, is not deemed to
8 have assumed office or left office, provided he or she did not make or participate in the making
9 of, or use his or her position to influence any decision and did not receive or become entitled to
10 receive any form of payment as a result of his or her appointment. Such persons shall not file
11 either an assuming or leaving office statement.

12 (A) Any person who resigns a position within 30 days of the date of a notice from the
13 filing officer shall do both of the following:

14 (1) File a written resignation with the appointing power; and

15 (2) File a written statement with the filing officer declaring under penalty of perjury that
16 during the period between appointment and resignation he or she did not make, participate in the
17 making, or use the position to influence any decision of the agency or receive, or become entitled
18 to receive, any form of payment by virtue of being appointed to the position.

19 (6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

20 (A) Contents of Initial Statements.

21 Initial statements shall disclose any reportable investments, interests in real property and
22 business positions held on the effective date of the code and income received during the 12

1 months prior to the effective date of the code.

2 (B) Contents of Assuming Office Statements.

3 Assuming office statements shall disclose any reportable investments, interests in real
4 property and business positions held on the date of assuming office or, if subject to State Senate
5 confirmation or appointment, on the date of nomination, and income received during the 12
6 months prior to the date of assuming office or the date of being appointed or nominated,
7 respectively.

8 (C) Contents of Annual Statements. Annual statements shall disclose any reportable
9 investments, interests in real property, income and business positions held or received during the
10 previous calendar year provided, however, that the period covered by an employee's first annual
11 statement shall begin on the effective date of the code or the date of assuming office whichever
12 is later, or for a board or commission member subject to Government Code section 87302.6, the
13 day after the closing date of the most recent statement filed by the member pursuant to 2 Cal.
14 Code Regs. section 18754.

15 (D) Contents of Leaving Office Statements.

16 Leaving office statements shall disclose reportable investments, interests in real property,
17 income and business positions held or received during the period between the closing date of the
18 last statement filed and the date of leaving office.

19 (7) Section 7. Manner of Reporting.

20 Statements of economic interests shall be made on forms prescribed by the Fair Political
21 Practices Commission and supplied by the agency, and shall contain the following information:

22 (A) Investments and Real Property Disclosure.

1 When an investment or an interest in real property³ is required to be reported,⁴ the
2 statement shall contain the following:

- 3 1. A statement of the nature of the investment or interest;
- 4 2. The name of the business entity in which each investment is held, and a general
5 description of the business activity in which the business entity is engaged;
- 6 3. The address or other precise location of the real property;
- 7 4. A statement whether the fair market value of the investment or interest in real
8 property equals or exceeds two thousand dollars (\$2,000), exceeds ten thousand dollars
9 (\$10,000), exceeds one hundred thousand dollars (\$100,000), or exceeds one million dollars
10 (\$1,000,000).

11 (B) Personal Income Disclosure. When personal income is required to be reported,⁵ the
12 statement shall contain:

- 13 1. The name and address of each source of income aggregating five hundred dollars
14 (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a
15 general description of the business activity, if any, of each source;
- 16 2. A statement whether the aggregate value of income from each source, or in the case of

³ For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

⁴ Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

⁵ A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

1 a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less,
2 greater than one thousand dollars (\$1,000), greater than ten thousand dollars (\$10,000), or
3 greater than one hundred thousand dollars (\$100,000);

4 3. A description of the consideration, if any, for which the income was received;

5 4. In the case of a gift, the name, address and business activity of the donor and any
6 intermediary through which the gift was made; a description of the gift; the amount or value of
7 the gift; and the date on which the gift was received;

8 5. In the case of a loan, the annual interest rate and the security, if any, given for the loan
9 and the term of the loan.

10 (C) Business Entity Income Disclosure. When income of a business entity, including
11 income of a sole proprietorship, is required to be reported,⁶ the statement shall contain:

12 1. The name, address, and a general description of the business activity of the business
13 entity;

14 2. The name of every person from whom the business entity received payments if the
15 filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand
16 dollars (\$10,000).

17 (D) Business Position Disclosure. When business positions are required to be reported, a
18 designated employee shall list the name and address of each business entity in which he or she is
19 a director, officer, partner, trustee, employee, or in which he or she holds any position of
20 management, a description of the business activity in which the business entity is engaged, and

⁶ Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the

1 the designated employee's position with the business entity.

2 (E) Acquisition or Disposal During Reporting Period. In the case of an annual or
3 leaving office statement, if an investment or an interest in real property was partially or wholly
4 acquired or disposed of during the period covered by the statement, the statement shall contain
5 the date of acquisition or disposal.

6 (8) Section 8. Prohibition on Receipt of Honoraria.

7 (A) No member of a state board or commission, and no designated employee of a state or
8 local government agency, shall accept any honorarium from any source, if the member or
9 employee would be required to report the receipt of income or gifts from that source on his or
10 her statement of economic interests. This section shall not apply to any part-time member of the
11 governing board of any public institution of higher education, unless the member is also an
12 elected official.

13 Subdivisions (a), (b), and (c) of Government Code Section 89501 shall apply to the
14 prohibitions in this section.

15 This section shall not limit or prohibit payments, advances, or reimbursements for travel
16 and related lodging and subsistence authorized by Government Code section 89506.

17 (8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of \$360.

18 (A) No member of a state board or commission, and no designated employee of a state or
19 local government agency, shall accept gifts with a total value of more than \$360 in a calendar
20 year from any single source, if the member or employee would be required to report the receipt
21 of income or gifts from that source on his or her statement of economic interests. This section

disclosure categories of the filer.

1 shall not apply to any part-time member of the governing board of any public institution of
2 higher education, unless the member is also an elected official.

3 Subdivisions (e), (f), and (g) of Government Code section 89503 shall apply to the
4 prohibitions in this section.

5 (8.2) Section 8.2. Loans to Public Officials.

6 (A) No elected officer of a state or local government agency shall, from the date of his or
7 her election to office through the date that he or she vacates office, receive a personal loan from
8 any officer, employee, member, or consultant of the state or local government agency in which
9 the elected officer holds office or over which the elected officer's agency has direction and
10 control.

11 (B) No public official who is exempt from the state civil service system pursuant to
12 subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while
13 he or she holds office, receive a personal loan from any officer, employee, member, or consultant
14 of the state or local government agency in which the public official holds office or over which
15 the public official's agency has direction and control. This subdivision shall not apply to loans
16 made to a public official whose duties are solely secretarial, clerical, or manual.

17 (C) No elected officer of a state or local government agency shall, from the date of his or
18 her election to office through the date that he or she vacates office, receive a personal loan from
19 any person who has a contract with the state or local government agency to which that elected
20 officer has been elected or over which that elected officer's agency has direction and control.
21 This subdivision shall not apply to loans made by banks or other financial institutions or to any
22 indebtedness created as part of a retail installment or credit card transaction, if the loan is made

1 or the indebtedness created in the lender's regular course of business on terms available to
2 members of the public without regard to the elected officer's official status.

3 (D) No public official who is exempt from the state civil service system pursuant to
4 subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while
5 he or she holds office, receive a personal loan from any person who has a contract with the state
6 or local government agency to which that elected officer has been elected or over which that
7 elected officer's agency has direction and control. This subdivision shall not apply to loans
8 made by banks or other financial institutions or to any indebtedness created as part of a retail
9 installment or credit card transaction, if the loan is made or the indebtedness created in the
10 lender's regular course of business on terms available to members of the public without regard to
11 the elected officer's official status. This subdivision shall not apply to loans made to a public
12 official whose duties are solely secretarial, clerical, or manual.

13 (E) This section shall not apply to the following:

14 1. Loans made to the campaign committee of an elected officer or candidate for elective
15 office.

16 2. Loans made by a public official's spouse, child, parent, grandparent, grandchild,
17 brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first
18 cousin, or the spouse of any such persons, provided that the person making the loan is not acting
19 as an agent or intermediary for any person not otherwise exempted under this section.

20 3. Loans from a person which, in the aggregate, do not exceed five hundred dollars
21 (\$500) at any given time.

22 4. Loans made, or offered in writing, before January 1, 1998.

1 (8.3) Section 8.3. Loan Terms.

2 (A) Except as set forth in subdivision (B), no elected officer of a state or local
3 government agency shall, from the date of his or her election to office through the date he or she
4 vacates office, receive a personal loan of five hundred dollars (\$500) or more, except when the
5 loan is in writing and clearly states the terms of the loan, including the parties to the loan
6 agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments
7 shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

8 (B) This section shall not apply to the following types of loans:

9 1. Loans made to the campaign committee of the elected officer.

10 2. Loans made to the elected officer by his or her spouse, child, parent, grandparent,
11 grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt,
12 uncle, or first cousin, or the spouse of any such person, provided that the person making the loan
13 is not acting as an agent or intermediary for any person not otherwise exempted under this
14 section.

15 3. Loans made, or offered in writing, before January 1, 1998.

16 (C) Nothing in this section shall exempt any person from any other provision of Title 9
17 of the Government Code.

18 (8.4) Section 8.4. Personal Loans.

19 (A) Except as set forth in subdivision (B), a personal loan received by any designated
20 employee shall become a gift to the designated employee for the purposes of this section in the
21 following circumstances:

22 1. If the loan has a defined date or dates for repayment, when the statute of limitations

1 for filing an action for default has expired.

2 2. If the loan has no defined date or dates for repayment, when one year has elapsed
3 from the later of the following:

4 a. The date the loan was made.

5 b. The date the last payment of one hundred dollars (\$100) or more was made on the
6 loan.

7 c. The date upon which the debtor has made payments on the loan aggregating to less
8 than two hundred fifty dollars (\$250) during the previous 12 months.

9 (B) This section shall not apply to the following types of loans:

10 1. A loan made to the campaign committee of an elected officer or a candidate for
11 elective office.

12 2. A loan that would otherwise not be a gift as defined in this title.

13 3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which
14 the creditor has taken reasonable action to collect the balance due.

15 4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which
16 the creditor, based on reasonable business considerations, has not undertaken collection action.

17 Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this
18 paragraph has the burden of proving that the decision for not taking collection action was based
19 on reasonable business considerations.

20 5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately
21 discharged in bankruptcy.

22 (C) Nothing in this section shall exempt any person from any other provisions of Title 9

1 of the Government Code.

2 (9) Section 9. Disqualification.

3 No designated employee shall make, participate in making, or in any way attempt to use
4 his or her official position to influence the making of any governmental decision which he or she
5 knows or has reason to know will have a reasonably foreseeable material financial effect,
6 distinguishable from its effect on the public generally, on the official or a member of his or her
7 immediate family or on:

8 (A) Any business entity in which the designated employee has a direct or indirect
9 investment worth two thousand dollars (\$2,000) or more;

10 (B) Any real property in which the designated employee has a direct or indirect interest
11 worth two thousand dollars (\$2,000) or more;

12 (C) Any source of income, other than gifts and other than loans by a commercial lending
13 institution in the regular course of business on terms available to the public without regard to
14 official status, aggregating five hundred dollars (\$500) or more in value provided to, received by
15 or promised to the designated employee within 12 months prior to the time when the decision is
16 made;

17 (D) Any business entity in which the designated employee is a director, officer, partner,
18 trustee, employee, or holds any position of management; or

19 (E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating
20 \$360 or more provided to, received by, or promised to the designated employee within 12
21 months prior to the time when the decision is made.

22 (9.3) Section 9.3. Legally Required Participation.

1 No designated employee shall be prevented from making or participating in the making
2 of any decision to the extent his or her participation is legally required for the decision to be
3 made. The fact that the vote of a designated employee who is on a voting body is needed to
4 break a tie does not make his or her participation legally required for purposes of this section.

5 (9.5) Section 9.5. Disqualification of State Officers and Employees.

6 In addition to the general disqualification provisions of section 9, no state administrative
7 official shall make, participate in making, or use his or her official position to influence any
8 governmental decision directly relating to any contract where the state administrative official
9 knows or has reason to know that any party to the contract is a person with whom the state
10 administrative official, or any member of his or her immediate family has, within 12 months
11 prior to the time when the official action is to be taken:

12 (A) Engaged in a business transaction or transactions on terms not available to members
13 of the public, regarding any investment or interest in real property; or

14 (B) Engaged in a business transaction or transactions on terms not available to members
15 of the public regarding the rendering of goods or services totaling in value one thousand dollars
16 (\$1,000) or more.

17 (10) Section 10. Disclosure of Disqualifying Interest.

18 When a designated employee determines that he or she should not make a governmental
19 decision because he or she has a disqualifying interest in it, the determination not to act may be
20 accompanied by disclosure of the disqualifying interest.

21 (11) Section 11. Assistance of the Commission and Counsel.

22 Any designated employee who is unsure of his or her duties under this code may request

1 assistance from the Fair Political Practices Commission pursuant to Government Code section
2 83114 and 2 Cal. Code Regs. sections 18329 and 18329.5 or from the attorney for his or her
3 agency, provided that nothing in this section requires the attorney for the agency to issue any
4 formal or informal opinion.

5 (12) Section 12. Violations.

6 This code has the force and effect of law. Designated employees violating any provision
7 of this code are subject to the administrative, criminal and civil sanctions provided in the
8 Political Reform Act, Government Code sections 81000 – 91014. In addition, a decision in
9 relation to which a violation of the disqualification provisions of this code or of Government
10 Code section 87100 or 87450 has occurred may be set aside as void pursuant to Government
11 Code section 91003.

12
13 NOTE: Authority cited: Section 83112, Government Code.

14 Reference: Sections 87103(e), 87300-87302, 89501, 89502 and 89503, Government Code.